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THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No 98,392)

PATENT

#20  
JRP  
2/28/02

In re Application of:

Jonathan Embleton et al.

Serial No.: 09/091,958

Filed: June 7, 1999

For: Ophthalmic Treatment

Examiner: Z. Fay

Group Art Unit: 1614

RECEIVED  
FEB 19 2002  
TECH CENTER 1600/2900

REQUEST TO WITHDRAW ABANDONMENT

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In response to the Notice of Abandonment mailed October 23, 2001, (Exhibit 1 hereto and hereinafter "Notice"), Applicants respectfully request that the Notice be withdrawn. There was no abandonment in fact.

According to the Notice, abandonment resulted from Applicants' failure to respond to the Office Action dated February 13, 2001 ("Action"). In fact, Applicants did respond to the Action in a timely manner, and it would appear that the Office mishandled Applicants' papers.

On August 13, 2001, Applicants submitted a "Petition For Three Month Extension Of Time" (Exhibit 2 hereto and hereinafter "Extension Petition"), and a Response to the Office Action (Exhibit 3 hereto and hereinafter "Response"). The Extension Petition and the Response were mailed with a transmittal letter (Exhibit 4) listing the Extension Petition, and Response and which was included a 'CERTIFICATE

UNDER 37 C.F.R. 1.8" and thus were entitled to a timely filing date of August 13, 2001. A check in the amount of \$890.00 (Applicant's non-negotiable copy is attached as Exhibit 5 hereto) accompanied the Extension Petition. The transmittal letter also authorized the Office to charge any fee to Deposit Account No. 13-2490. The filing further included a receipt postcard (Exhibit 6 hereto).

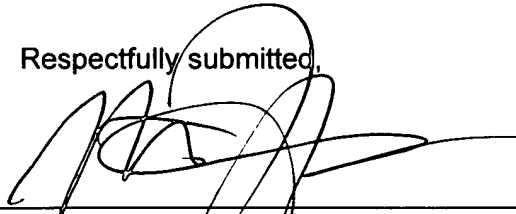
The Commissioner's attention is directed to the consistent identification of "Case No. 98,392" throughout the exhibits hereto, including the Notice. This is the internal identification utilized by Applicants' counsel.

The Office returned Applicants' postcard stamped (Exhibit 7 hereto) indicating receipt on August 16, 2001. Furthermore, Applicants' extension check was deposited by the Commissioner on August 17, 2001 (Exhibit 8 hereto).

It is therefore respectfully submitted that the holding of abandonment of the above-identified application should be withdrawn.

Date: January 17, 2002

Respectfully submitted,



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Steven J. Sarussi  
Reg. No. 32,784

McDonnell Boehnen  
Hulbert & Berghoff  
300 S Wacker Drive  
Chicago, Illinois 60606  
(312) 913-0001

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Commissioner for Patents  
Washington, D.C. 20231

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Sir:

**TRANSMITTAL LETTER**

In regard to the above identified application:

1. We are transmitting herewith the attached:

- a. Request to Withdraw Abandonment;
- b. 8 Exhibits (1-8); and
- c. Postcard.

2. With respect to additional fees:

A. No fees are necessary at this time.

B. Charge the total additional fee to our Deposit Account No. 13-2490.  
A duplicate copy of this sheet is enclosed.

3. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490.  
A duplicate copy of this sheet is enclosed.

4. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231 on this 17<sup>th</sup> day of January 2002.

By:

Steven J. Sarussi  
Reg. No. 32,784